

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOHNNY HOWARD GATES,  
  
Plaintiff,  
  
v.  
  
M. NAVARRO, et al.,  
  
Defendants.

Case No. 1:23-cv-00271-KES-CDB

**ORDER DISCHARGING ORDER TO  
SHOW CAUSE IN WRITING WHY  
PLAINTIFF FAILED TO KEEP  
THE COURT APPRISED OF HIS  
CURRENT ADDRESS**

Plaintiff Johnny Howard Gates is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The action proceeds against Defendant J. Alejo and F. Barrios on Eighth Amendment excessive force claims and against Defendant M. Navarro on an Eighth Amendment failure to protect claim.

**I. INTRODUCTION**

On April 10, 2024, this Court issued its Order to Show Cause (“OSC”) in Writing Why Plaintiff Failed to Keep the Court Apprised of his Current Address. (Doc. 25.) Plaintiff was directed to file a written response within 21 days. (*Id.* at 4.)

On April 24, 2024, Plaintiff filed a response to the OSC. (Doc. 28.) Briefly stated, Plaintiff attests he was transferred to California State Prison-Lancaster on September 9, 2023. (*Id.* at 2.) Plaintiff states he “sent (2) change of prison/transfer...” although he fails to provide a date or approximate date for having turned the notice of change of address over to corrections officials

1 for mailing. (*Id.* at 2-3.) Plaintiff states he failed to respond to the Court’s orders because his legal  
 2 mail was not being delivered to him in Lancaster—although not entirely clear, it appears Plaintiff  
 3 is now in receipt of copies of the orders previously returned to the Court marked undeliverable or  
 4 return to sender. (*Id.* at 3.) Plaintiff states he has addressed correctional officials about his legal  
 5 mail concerns and has been assured the problem has been addressed. (*Id.* at 3-4.) Plaintiff  
 6 contends his delay in the prosecution of this action is due to “CDCR’s legal mail delivery  
 7 process.” (*Id.* at 4.) He asks the Court to “allow the plaintiff all [opportunities] to re-address all  
 8 [opportunities] due to un-deliverable mail.” (*Id.* at 5.)

## 9 II. DISCUSSION

10 The Court accepts Plaintiff’s written response and will discharge the OSC accordingly. To  
 11 the extent Plaintiff seeks to “re-address” prior orders or opportunities, that request is denied. The  
 12 Court issued its Discovery and Scheduling Order on April 10, 2024, to avoid further delay in this  
 13 action. Thus, the parties are expected to engage in the discovery process and to meet the deadlines  
 14 provided for in that order.

15 Prior to the delay of these proceedings, the Court notes that Defendants expressed an  
 16 interest in participating in an early settlement conference in this action. (*See* Doc. 19.) In the  
 17 event Defendants remain willing to participate in an early settlement conference despite the  
 18 passage of more than six months since filing the relevant notice, defense counsel may contact the  
 19 undersigned’s courtroom deputy, within 30 days of the date of this order, via email at  
 20 [shall@caed.uscourts.gov](mailto:shall@caed.uscourts.gov) to schedule a settlement conference.<sup>1</sup> Plaintiff is advised Defendants’  
 21 participation in an early settlement conference is voluntary; the Court will not order Defendants  
 22 to participate. Therefore, if Defendants do not contact the undersigned’s courtroom deputy, a  
 23 settlement conference will not be set, and discovery will continue unimpeded.

## 24 III. CONCLUSION AND ORDER

25 For the reasons stated above, **IT IS HEREBY ORDERED** that:

- 26 1. The OSC issued April 10, 2024 (Doc. 25) is **DISCHARGED**;

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27 <sup>1</sup> Should Defendants elect to participate in a settlement conference, the Court will stay discovery and issue  
 28 an amended scheduling order, if appropriate, following any such proceeding.

- 1           2. Should Defendants wish to participate in a settlement conference in this action,  
2           defense counsel shall contact Courtroom Deputy Susan Hall at  
3           [shall@caed.uscourts.gov](mailto:shall@caed.uscourts.gov), **within 30 days** of the date of this order, to schedule the  
4           settlement conference;  
5           3. If a settlement conference is not scheduled in this action, the parties are expected to  
6           participate in discovery as outlined in this Court's Discovery and Scheduling Order  
7           issued April 10, 2024.

8 IT IS SO ORDERED.

9           Dated: **April 25, 2024**

  
UNITED STATES MAGISTRATE JUDGE